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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/814,099

03/31/2004

David A. Hughes

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EXAMINER

SABOURI, MAZDA

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

01/22/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/814,099

Applicant(s)

HUGHES, DAVID A.

Examiner

Mazda Sabouri

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 14-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 14-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see Remarks, filed 12/7/2007, with respect to the rejection(s) of claim(s) 1-18 under U.S.C. 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of US 2002/0018556 (Okazaki et al.).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-6 and 14-18** rejected under 35 U.S.C. 102(b) as being anticipated by US 2002/0018556 (Okazaki et al.).

4. **As to claim 1**, Okazaki teaches a method of creating a ring tone file, comprising the acts of:

a. Receiving on a handset an electronic data file comprising a master audio recording (audio data received, see paragraphs 43 and 44);

b. Receiving on the handset a ring tone start designation for a first time during an output of the master audio recording (first click during audio signal reproduction, see paragraphs 47-52);

- c. Receiving on the handset a ring tone stop designation for a second time during the output of the master audio recording (second click during audio signal reproduction, see paragraphs 47-52);
 - d. Creating a ring tone file from a portion of the electronic data file defined by the start designation and the stop designation, the ring tone file solely comprising a temporally contiguous portion of the master audio recording (portion of audio signal between first and second clicks is registered as a ring tone, see paragraphs 50-52);
 - e. Making the ring tone file available for selection by a user (the registered ring tone is used as ring tone upon user selection of mode, see paragraph 62).
5. **As to claim 6**, Okazaki teaches a computer readable medium encoded with computer program which, when loaded into a processor, implements the method of claim 1 (CPU controls audio reproduction function, see paragraphs 32,43,44,47-52 and 62).
6. **As to claim 14**, Okazaki teaches a method of manufacturing a wireless handset, comprising the acts of:
- f. Configuring the handset to receive an electronic data file comprising a master audio recording (audio data received, see paragraphs 43 and 44);
 - g. Configuring the handset to receive a first user input, wherein the first user input enables the user to input a ring tone start designation for a first time during an output of the master audio recording (first click during audio signal reproduction, see paragraphs 47-52);

- h. Configuring the handset to receive a second user input, wherein the second user input enables the user to input a ring tone stop designation for a second time during the output of the master audio recording (second click during audio signal reproduction, see paragraphs 47-52);
 - i. Configuring the handset to create a ring tone file from a portion of the electronic data file defined by the start designation and the stop designation, the ring tone file solely comprising a temporally contiguous portion of the master audio recording (portion of audio signal between first and second clicks is registered as a ring tone, see paragraphs 50-52);
 - j. Configuring the handset to make the ring tone file available for selection by the user (the registered ring tone is used as ring tone upon user selection of mode, see paragraph 62).
7. **As to claims 2 and 15**, Okazaki further teaches that the ring tone stop designation comprises an elapsed time after the ring tone start designation (see paragraph 52).
8. **As to claims 3 and 16**, Okazaki further teaches receiving the electronic data via a wireless signal (see paragraphs 43 and 44).
9. **As to claims 4,5,17 and 18**, Okazaki further teaches associating the ring tone file with an input communication source, the communication source being one of a paging system or telephone system (incoming call from telephone system) (see paragraphs 53-59).

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mazda Sabouri whose telephone number is 571-272-8892. The examiner can normally be reached on Monday-Friday from 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rafael Perez-Gutierrez can be reached on 571-272-7915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mazda Sabouri
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Art Unit 2617

MS


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11/17/09